

ORDINANCE NO. G-4175

AN ORDINANCE REPEALING ARTICLE IX, SECTIONS 2-164 THROUGH 2-175 OF THE PHOENIX CITY CODE RELATING TO THE BUILDING SAFETY ADVISORY BOARD AND RECREATING ARTICLE IX RELATING TO THE DEVELOPMENT ADVISORY BOARD.

NOW, THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PHOENIX as follows:

SECTION 1. Article IX, Sections 2-164 through 2-175 of the Phoenix City Code relating to the creation and duties of the Building Safety Advisory Board are hereby repealed.

SECTION 2. Article IX of the Phoenix City Code relating to the creation and duties of the Development Advisory Board is hereby created to read as follows:

ARTICLE IX. DEVELOPMENT ADVISORY BOARD

SEC. 2-164. PURPOSE AND FORMATION

(A). THERE IS HEREBY CREATED A DEVELOPMENT ADVISORY BOARD, HEREINAFTER CALLED "THE BOARD". THE BOARD WILL PROVIDE THE CITY COUNCIL A VENUE BY WHICH ONE BOARD IS RESPONSIBLE FOR OVERSEEING THE DEVELOPMENT PROCESS IN A COMPREHENSIVE

MANNER, AS WELL AS PROVIDING THE MEANS FOR PARTICIPATION AND INPUT FROM A LARGE AND DIVERSE COUNCIL-APPOINTED BODY.

- (B). THE BOARD SHALL CONSIST OF 17 MEMBERS, OF WHICH AT LEAST 14 SHALL BE RESIDENTS OF THE CITY OF PHOENIX. THREE MAY BE NON-PHOENIX RESIDENTS OF MARICOPA COUNTY, SO LONG AS THEY OWN OR ARE EMPLOYED BY A BUSINESS LOCATED IN THE CITY OF PHOENIX. ALL MEMBERS SHALL BE RESIDENTS OF THE UNITED STATES. THE DESIGN PROFESSIONAL AND CONTRACTOR REPRESENTATIVES SHALL BE SELECTED TO REPRESENT THE GREATEST DIVERSITY PRACTICABLE AMONG THE VARIOUS ARCHITECTURAL, ENGINEERING AND CONTRACTING TRADES, DISCIPLINES AND AREAS OF PRACTICAL EXPERTISE. THE MEMBERSHIP SHALL BE COMPOSED OF THE FOLLOWING:

- 5 DESIGN PROFESSIONALS
- 5 CONTRACTORS
- 3 CITY OF PHOENIX RESIDENTS WHO REPRESENT RESIDENTIAL NEIGHBORHOOD INTERESTS
- 1 CITY RESIDENT REPRESENTING DISABILITY ISSUES
- 1 DEVELOPER/OWNER OF RESIDENTIAL PROJECTS
- 1 DEVELOPER/OWNER OF COMMERCIAL /INDUSTRIAL PROJECTS
- 1 REPRESENTATIVE OF A CITYWIDE ORGANIZATION OF BUSINESS INTERESTS

- (C). THE BOARD SHALL ALSO INCLUDE 7 NON-VOTING MEMBERS WHICH SHALL INCLUDE THE DEVELOPMENT SERVICES DEPARTMENT DIRECTOR OR HIS DESIGNEE AND 1 REPRESENTATIVE EACH FROM THE FOLLOWING DEPARTMENTS: EQUAL OPPORTUNITY, FIRE, STREET TRANSPORTATION, PLANNING, NEIGHBORHOOD SERVICES, WATER SERVICES.

- (D). THE MEMBERS OF THE BOARD SHALL SERVE WITHOUT SALARY OR COMPENSATION.
- (E). THE DEVELOPMENT SERVICES DEPARTMENT SHALL FURNISH SECRETARIAL SERVICES FOR THE BOARD.

SEC. 2-165. MEMBERSHIP AND TERMS OF OFFICE

- (A). THE MEMBERS OF THE BOARD SHALL BE APPOINTED BY THE CITY COUNCIL FOR A TERM OF THREE YEARS.
- (B). THE INITIAL TERMS OF OFFICE FOR MEMBERS APPOINTED IN 1999 SHALL BE AS FOLLOWS: ONE (1) DESIGN PROFESSIONAL, ONE (1) CONTRACTOR AND ONE (1) DEVELOPER SHALL SERVE A TERM OF ONE YEAR. TWO (2) DESIGN PROFESSIONALS, TWO (2) CONTRACTORS, ONE (1) DEVELOPER/OWNER, AND ONE (1) RESIDENT SHALL SERVE A TERM OF TWO YEARS. TWO (2) DESIGN PROFESSIONALS, TWO (2) CONTRACTORS, TWO (2) RESIDENT, ONE (1) RESIDENT REPRESENTING DISABILITY ISSUES, AND ONE (1) BUSINESS ORGANIZATION REPRESENTATIVE, SHALL SERVE A TERM OF THREE YEARS. ALL TERMS OF OFFICE SHALL COMMENCE AS OF JULY 1.
- (C). THE ABSENCE OF ANY MEMBER FROM THREE CONSECUTIVE REGULAR MEETINGS OF THE BOARD SHALL RENDER ANY SUCH MEMBER LIABLE FOR IMMEDIATE REMOVAL FROM OFFICE. REMOVAL SHALL BE AT THE DISCRETION OF THE CITY COUNCIL.
- (D). VACANCIES FOR AN UNEXPIRED TERM SHALL BE FILLED BY THE CITY COUNCIL.
- (E). NO MEMBER SHALL SERVE MORE THAN TWO FULL THREE-YEAR TERMS, TOGETHER WITH ANY PARTIAL TERM WHICH IS LESS THAN THREE YEARS.

SEC. 2-166. DUTIES AND RESPONSIBILITIES OF BOARD

(A). THE DUTIES AND POWERS OF THIS BOARD, EXCEPT AS TO APPEALS, SHALL BE IN AN ADVISORY CAPACITY ONLY.

(B). THE BOARD SHALL:

1. PROVIDE THE DEVELOPMENT SERVICES DIRECTOR AND THE CITY COUNCIL WITH GENERAL ADVISORY OVERSIGHT OF THE DEVELOPMENT PROCESS, WHICH SHALL INCLUDE WORKING WITH OTHER CITY BOARDS AND COMMISSIONS ON DEVELOPMENT RELATED CODES AND PROCESSES (SUCH AS THE FIRE SAFETY ADVISORY BOARD, PLANNING COMMISSION, MAYOR'S COMMISSION ON DISABILITY ISSUES AND SURFACE TRANSPORTATION ADVISORY BOARD).
2. MAKE RECOMMENDATIONS TO THE CITY COUNCIL FOR PERIODIC UPDATING OF THE PHOENIX CONSTRUCTION CODE AND TECHNICAL DEVELOPMENT STANDARDS CONTAINED IN CHAPTERS 28, 31, 32, 32A, 32B, AND 37 OF THE PHOENIX CITY CODE.
3. MAKE RECOMMENDATIONS TO OTHER CITY BOARDS AND COMMISSIONS FOR REVISIONS TO DEVELOPMENT-RELATED CODES AND PROCESSES NOT UNDER THE JURISDICTION OF THIS BOARD, WHEN SUCH REVISIONS SHOULD BE CONSIDERED IN ORDER TO STREAMLINE OR SIMPLIFY THE DEVELOPMENT APPROVAL PROCESS.
4. HEAR APPEALS FROM THE DECISION OF THE BUILDING OFFICIAL OR DEVELOPMENT SERVICES DIRECTOR AND RENDER DECISIONS THEREON.

SEC. 2-167. ELECTION OF OFFICERS.

THE BOARD SHALL ANNUALLY AT ITS JULY MEETING, ELECT ONE OF ITS MEMBERS TO SERVE AS THE CHAIRPERSON, AND ONE MEMBER TO SERVE AS THE VICE CHAIR.

SEC. 2-168. MEETING; QUORUM

- (A). THE BOARD SHALL HOLD ONE REGULAR MEETING A MONTH. SPECIAL BOARD MEETINGS MAY BE CALLED BY THE DEVELOPMENT SERVICES DIRECTOR, THE CHAIR OR ANY THREE MEMBERS OF THE BOARD.
- (B). A MAJORITY OF APPOINTED MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM FOR THE TRANSACTION OF BUSINESS. THE AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBERS PRESENT AT A BOARD MEETING SHALL BE NECESSARY TO TAKE FORMAL ACTION.

SEC. 2-169. CONFLICT OF INTEREST

A MEMBER WHO HAS, OR WHOSE RELATIVE HAS, A SUBSTANTIAL INTEREST IN ANY APPEAL BEFORE THE BOARD SHALL MAKE FULL DISCLOSURE OF SUCH INTEREST TO THE BOARD, AND SHALL REFRAIN FROM PARTICIPATING IN ANY MANNER IN THE DISCUSSION OR THE DECISION ON SUCH APPEAL.

SEC. 2-170. RECOMMENDATIONS ON ORDINANCE CHANGES.

- (A.) SPECIAL COMMITTEE. PROPOSED REVISIONS OF CODES OR ORDINANCES SHALL FIRST BE CONSIDERED BY A SPECIAL COMMITTEE OF BOARD MEMBERS AND OTHER TECHNICAL EXPERTS. THIS

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COMMITTEE SHALL INCLUDE A COMMITTEE CHAIRMAN AND VICE CHAIRMAN WHO SHALL BE MEMBERS FROM THIS BOARD APPOINTED BY THE CHAIR. THESE TWO MEMBERS SHALL THEN APPOINT SUCH ADDITIONAL COMMITTEE MEMBERS AS THEY DEEM ADVISABLE FROM THE INDUSTRY OR TRADE AFFECTED BY THE PROPOSED CHANGES. INDUSTRY REPRESENTATIVES MAY INCLUDE ARCHITECTS, LANDSCAPE ARCHITECTS, INTERIOR DESIGNERS, CIVIL, STRUCTURAL, MECHANICAL, ELECTRICAL, GEOLOGICAL, FIRE PROTECTION, ENVIRONMENTAL, AND SANITARY ENGINEERS, COMMERCIAL BUILDING CONTRACTORS, RESIDENTIAL CONTRACTORS, PLUMBING, MECHANICAL, ELECTRICAL, UTILITY, AND EARTH-MOVING CONTRACTING INDUSTRY REPRESENTATIVES, OR OTHER SPECIALIZED TECHNICAL EXPERTS AS DEEMED APPROPRIATE BY THE CHAIR AND VICE CHAIR OF THE SPECIAL COMMITTEE. THE COMMITTEE SHALL SUBMIT RECOMMENDATIONS TO THE BOARD AS SOON AS POSSIBLE OR AS DIRECTED BY THE BOARD.

- (B). PUBLIC HEARING. UPON RECEIPT OF THE SPECIAL COMMITTEE RECOMMENDATION, THE BOARD SHALL HOLD A PUBLIC HEARING TO RECEIVE TESTIMONY ON THE RECOMMENDATION. THEREAFTER, THE BOARD SHALL DETERMINE WHETHER TO RECOMMEND THE PROPOSAL TO THE CITY COUNCIL. THE BOARD MAY MODIFY THE RECOMMENDATION RECEIVED FROM THE SPECIAL COMMITTEE.
- (C). STAFF ASSISTANCE. THE DEVELOPMENT SERVICES DIRECTOR OR DESIGNEE SHALL PROVIDE STAFF ASSISTANCE AND SERVE AS SECRETARY FOR ALL SPECIAL COMMITTEES.

SEC. 2-172. APPEALS.

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- (A). ANY PERSON AGGRIEVED BY A FORMAL WRITTEN ORDER, DECISION, OR DETERMINATION OF TECHNICAL REQUIREMENTS MADE BY THE BUILDING OFFICIAL OR DEVELOPMENT SERVICES DIRECTOR MAY REQUEST A HEARING BY THE BOARD. APPEALS SHALL BE MADE IN WRITING ON A FORM PROVIDED BY THE DEVELOPMENT SERVICES DIRECTOR AND SHALL BE ACCOMPANIED BY A NON-REFUNDABLE APPEAL FEE AS SET FORTH IN APPENDIX A.2 OF THE PHOENIX CITY CODE. APPEALS MUST BE FILED WITHIN 10 DAYS OF THE DECISION OF THE BUILDING OFFICIAL OR DEVELOPMENT SERVICES DIRECTOR. ALL APPEAL HEARINGS SHALL BE OPEN AND PUBLIC, AND ANY PERSON WHOSE INTEREST MAY BE AFFECTED BY A DECISION OF THE BOARD SHALL BE GIVEN AN OPPORTUNITY TO BE HEARD. THE BOARD SHALL RENDER ALL DECISIONS IN WRITING.
- (B) GROUNDS FOR APPEAL. APPEALS MAY BE FILED ONLY WHEN IT IS CLAIMED THAT:
- (1). THE TRUE INTENT OF THE CODES OR ORDINANCES DESCRIBED IN THE PHOENIX CONSTRUCTION CODE AND TECHNICAL DEVELOPMENT STANDARDS CONTAINED IN CHAPTERS 28, 31, 32, 32A, 32B, AND 37 OF THE PHOENIX CITY CODE HAVE BEEN INCORRECTLY INTERPRETED.
 - (2). THE PROVISIONS OF THE CODES OR ORDINANCES DESCRIBED IN PARAGRAPH (B)(1) ABOVE DO NOT FULLY APPLY;
 - (3). AN ALTERNATE METHOD OF COMPLYING WITH CODE OR ORDINANCE REQUIREMENTS

SHOULD BE APPROVED BECAUSE THE STANDARDS SET FORTH BELOW ARE MET. THE BURDEN OF PROOF SHALL BE ON THE AGGRIEVED PERSON TO DEMONSTRATE THAT THE STANDARDS ARE MET.

- (A). SPECIAL CIRCUMSTANCES OR CONDITIONS APPLY TO THIS PERMIT APPLICATION; AND
 - (B). AUTHORIZING THE ALTERNATE METHOD IS NECESSARY FOR THE PRESERVATION AND ENJOYMENT OF SUBSTANTIAL PROPERTY RIGHTS; AND
 - (C). AUTHORIZING THE ALTERNATE METHOD WILL NOT BE MATERIALLY DETRIMENTAL TO PERSONS RESIDING OR WORKING IN THE VICINITY, TO ADJACENT PROPERTY, TO THE NEIGHBORHOOD OR TO THE PUBLIC WELFARE IN GENERAL; AND
 - (D). AUTHORIZING AN ALTERNATE METHOD OF COMPLIANCE WILL ACHIEVE THE INTENT OF THE SUBJECT CODES OR ORDINANCES AND AUTHORIZING THE ALTERNATE METHOD WILL NOT LESSEN ANY LIFE SAFETY REQUIREMENT, ANY TRAFFIC SAFETY REQUIREMENT, ANY FIRE PROTECTION REQUIREMENT, ANY STRUCTURAL INTEGRITY, OR ANY CAPACITY OF A REQUIRED SEWER, WATER, OR DRAINAGE SYSTEM.
- (4). THE BOARD MAY NOT WAIVE ANY OF THE PROVISIONS OF THE APPLICABLE CODE OR ORDINANCE.

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(5). BOARD MEMBERS SHALL NOT RECEIVE ANY ORAL OR WRITTEN COMMUNICATION ON APPEALS WHICH ARE PENDING BEFORE THE BOARD, OR WHICH MAY LATER COME BEFORE THE BOARD, EXCEPT TESTIMONY AND OTHER EVIDENCE PRESENTED IN PUBLIC HEARINGS ON THE APPEAL, COPIES OF THE OFFICIAL FILE ON THE APPEAL AND WRITTEN COMMUNICATIONS FURNISHED TO THE BOARD BY THE BOARD SECRETARY. A BOARD MEMBER WHO ENGAGES IN ORAL COMMUNICATIONS OR REVIEWS WRITTEN COMMUNICATIONS ON AN APPEAL, OTHER THAN ALLOWED AS STATED ABOVE, SHALL BE DISQUALIFIED TO PARTICIPATE IN THAT APPEAL.

(C). THE BOARD MAY:

1. AFFIRM THE DECISION OF THE BUILDING OFFICIAL OR DEVELOPMENT SERVICES DIRECTOR.
2. REMAND THE MATTER FOR FURTHER PROCEEDINGS BEFORE THE BUILDING OFFICIAL OR DEVELOPMENT SERVICES DIRECTOR;
3. REVERSE OR MODIFY THE DECISION OF THE BUILDING OFFICIAL OR DEVELOPMENT SERVICES DIRECTOR.

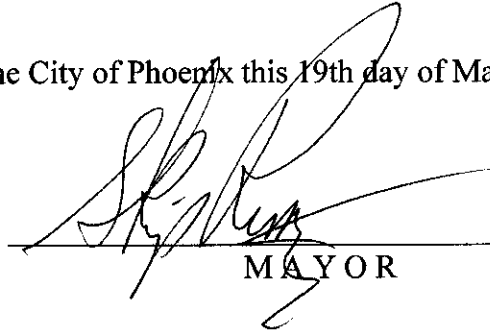
(D). THE BOARD SHALL HAVE NO JURISDICTION OVER ANY REQUIREMENT THAT A PERMIT MUST BE OBTAINED, DECISIONS TO PURSUE ENFORCEMENT ACTIONS IN ACCORDANCE WITH THE PROVISIONS

OF THE CITY CODE, OR THE AMOUNT OF ANY FEE
PRESCRIBED BY THE CITY CODE.

SEC. 2-173. COURT REVIEW.

THE DECISION OF THE BOARD ON APPEALS BROUGHT
UNDER SECTION 2-172 OF THIS ARTICLE SHALL BE FINAL.
ANY PERSON AGGRIEVED BY A DECISION ON AN APPEAL
MAY AT ANY TIME WITHIN THIRTY DAYS AFTER THE
BOARD HAS RENDERED ITS DECISION, FILE A SPECIAL
ACTION IN SUPERIOR COURT TO REVIEW THE BOARD'S
DECISION.


PASSED by the Council of the City of Phoenix this 19th day of May, 1999.


MAYOR

ATTEST:


City Clerk

APPROVED AS TO FORM:

 ^{ACTING}
City Attorney

REVIEWED BY:


City Manager

CM# MLW
MLW/ycm:83421:05/19/99